

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

A NEW YORK LIMITED LIABILITY PARTNERSHIP

901 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005-2327

425 PARK AVENUE
NEW YORK, NY 10022-3598
(212) 836-8000
FAX (212) 836-8689

1999 AVENUE OF THE STARS
LOS ANGELES, CA 90067-6048
(310) 788-1000
FAX (310) 788-1200

(202) 682-3500
FAX (202) 682-3580

NINE QUEEN'S ROAD CENTRAL
HONG KONG
852-2845-8989
FAX 852-2845-3682

WRITER'S DIRECT DIAL NUMBER

(202) 682-3536

February 22, 1999

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

RECEIVED

FEB 22 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Petition for Rulemaking
Radio Station WPUP(FM)
Royston, Georgia

Dear Ms. Salas:

On behalf of Southern Broadcasting of Athens, Inc., licensee of Radio Station WPUP(FM), Royston, Georgia, there is transmitted herewith an original and four (4) copies of its Petition for Rulemaking which seeks a change of city of license for WPUP(FM) from Royston to Commerce, Georgia.

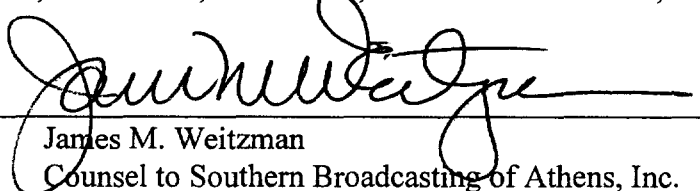
The Commission is requested to issue a Notice of Proposed Rulemaking proposing such change at the earliest possible moment.

Should there be any questions concerning the enclosure, kindly contact the undersigned.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

By:


James M. Weitzman
Counsel to Southern Broadcasting of Athens, Inc.

Enclosure

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044

MMB

Before the
Communications Commission
Washington, D.C. 20554

In the Matter of) MM Docket No. _____
) RM- _____
 Amendment of Section 73.202(b))
 (Table of Allotments))
 FM Broadcast Stations)
)
 Royston and Commerce, Georgia)

**To: Chief, Mass Media Bureau
Policy and Rules Division
Allocations Branch**

RECEIVED
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PETITION FOR RULE MAKING

Southern Broadcasting of Athens, Inc. ("Southern"), licensee of WPUP(FM), Royston, Georgia, by its attorneys, and pursuant to Section 1.420(i) of the Commission's Rules, hereby respectfully requests the Commission to amend Section 73.202(b) of the Rules to (a) delete Channel 279C3 from Royston, Georgia; (b) add Channel 279C3 to Commerce, Georgia; and (c) modify the license for WPUP to specify "Commerce, Georgia" as the Station's community of license. In support whereof, the following is shown:

Background

1. WPUP operates on Channel 279C3 at Royston, Georgia.¹ Southern requests the Commission to delete Channel 279C3 from Royston and to reallocate it to Commerce, Georgia, with a concurrent modification of the license of WPUP to operate

¹ The coordinates of WPUP's licensed transmitter site are North Latitude 34° 14' 13", West Longitude 83° 16' 03".

on Channel 279C3 at Commerce.² This change is permissible under Section 1.420(i) of the Rules, which authorizes the Commission to modify the license or permit of an FM station to specify a new community of license where the amended allotment would be mutually exclusive with the licensee's present allotment.

2. Two factors must be demonstrated in order to change a station's city of license in a rule making proceeding: (1) the channel changes must be mutually exclusive, and (2) the rule making must not deprive a community of an existing service representing its only local transmission service. The Commission stated that in making the determination of whether to amend the Table of Assignments it would "take into account the totality of the service improvements resulting from a proposed change in community of license in determining whether an allotment proposal should be approved." See, Modification of FM and TV Authorizations (New Community of License), 4 FCC Rcd 4870 [66 RR 2d 877] (1989). Southern's proposal is consistent with the rules and Commission policies, i.e., the channel changes are mutually exclusive, and the rule making will not deprive Royston of its only local transmission service.

Expression of Continuing Interest

3. If the Commission allots Channel 279C3 to Commerce, Southern will promptly file an application for minor change construction permit or new license, as directed by the Commission, to operate WPUP at Commerce, and upon grant, will

² The allocation coordinates for this proposal are North Latitude 34° 15' 58", West Longitude 83° 28' 44"

promptly make whatever changes are necessary to implement the community of license change.

4. Attachment 1 is a Technical Statement prepared by Clyde Scott Jr. of EME Communications, which is incorporated herein by reference, that provides the Commission with technical information about the proposed Royston/Commerce channel exchange. The attachment takes into consideration both the presently-licensed and the CP (license application pending) facilities of WDDK, Greensboro, Georgia.³ WDDK's licensed and CP facilities protect WPUP under Section 73.215 of the Rules. Because there is no transmitter site move proposed toward WDDK, there is no conflict between WDDK and Southern. However, should the Commission consider WDDK to be a constraint to this proposal, no harm will be done by the acceptance of Southern's petition since there is an adequate theoretical area where Southern could locate WPUP fully clear of WDDK operating on Channel 280A. Exhibit 4 of the technical statement demonstrates this. From an hypothetical reference site of North latitude 34° 15' 58", West longitude 83° 28' 44" a city-grade signal would be placed over Commerce, Georgia, and the allotment would meet all existing separation requirements, including WDDK.

³ WDDK has completed construction of the CP facilities authorized in File No. BPH-970818IE and has filed a covering license application which is pending (File No. BLH-981127KC).

Royston, Georgia

Exhibit 2 of the attachment, shows that Royston, Georgia, had a 1990 population of 2,758. Royston has two commercial broadcast stations, WBIC(AM) and WPUP(FM). Reallotment of Channel 279C3 to Commerce will not deprive Royston of its only local transmission service since WBIC(AM) will continue to provide service to that community.

Commerce, Georgia

5. Commerce is an incorporated community in Jackson County, Georgia. The U.S. Census indicates it had a 1990 population of 4,108 persons (See Attachment, Exhibit 2) Commerce is served by daytime only station WJJC, and WPUP would bring Commerce its first local fulltime FM station.

Public Interest Considerations

6. Exhibit 1 and Exhibit 1A of the attachment show that Commerce presently receives city grade service from WPUP and will continue to do so after a city of license change.

7. Since no site relocation is required, there will be no loss of service to any area and service to Royston will not be reduced under this proposal. Because Royston will continue to receive local service from WBIC(AM), Southern's proposal will not deprive Royston of its only local transmission service.

8. The Commission's priorities for assigning FM allotments are set out in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 [51 RR 2d 807] (1982). They are: (1) first aural service, (2) second aural service, (3) first local

service, and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3). Here, the reallocation of Channel 279C3 from Royston to Commerce is preferred because Commerce is substantially larger than Royston, with 1,350 more persons. Thus, there would be a preferential arrangement of allocations resulting from the allocation of Channel 279C3 to Commerce.

WHEREFORE, Southern respectfully requests the Commission to amend Section 73.202(b) of the Commission's Rules, as follows:

	<u>South Carolina</u>	
	<u>Present</u>	<u>Proposed</u>
Royston	279C3	---- ⁴
Commerce	----	279C3
	<u>Conclusion</u>	

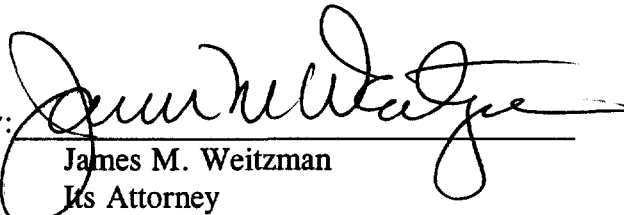
Southern requests the Commission to (a) delete Channel 279C3 from Royston, Georgia, (b) allocate Channel 279C3 to Commerce, Georgia, and (c) modify the license of WPUP to operate on FM Channel 279C3 at Commerce, Georgia. As stated supra, if the FCC modifies the license of WPUP to operate on Channel 279C3 at Commerce, Southern will timely file an application for minor change construction permit or new

⁴ Royston would continue to receive service from WBIC(AM).

license as directed by the Commission to operate WPUP at Commerce, and upon grant thereof, Southern will make whatever changes are necessary to implement this change.

Respectfully submitted,

**SOUTHERN BROADCASTING
OF ATHENS, INC.**

By: 
James M. Weitzman
Its Attorney

February 22, 1999

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP
901 15th Street, N.W.
Suite 1100
Washington, D.C. 20005
Telephone (202) 682-3536

**SOUTHERN BROADCASTING
OF ATHENS, INC.
WPUP(FM)
ROYSTON, GA - COMMERCE, GA.
FEBRUARY 1999**

The Following technical exhibit and statement has been prepared on behalf of Southern Broadcasting of Athens, Inc. The purpose is to show that WPUP does meet all criteria as set forth in Federal Communications Commission rules related to 70 dBu or better coverage over the entire proposed city of license.

Exhibit-1 is a visual plot showing the proposed city of license and the 70 dBu (3.16 mV/m) contour from WPUP(FM)'s licensed site.


Exhibit-1A is a close view, overlaid onto a scanned USGS topographic map showing the 70 dBu Contour.

Exhibit-2 is a population comparison of the two cities. The exhibit clearly shows that the public interest would be better served by this proposed change in city of license from Royston to Commerce, Georgia. An increase of 1,350 in city and 13,335 in county population would be realized by granting of the proposed change.

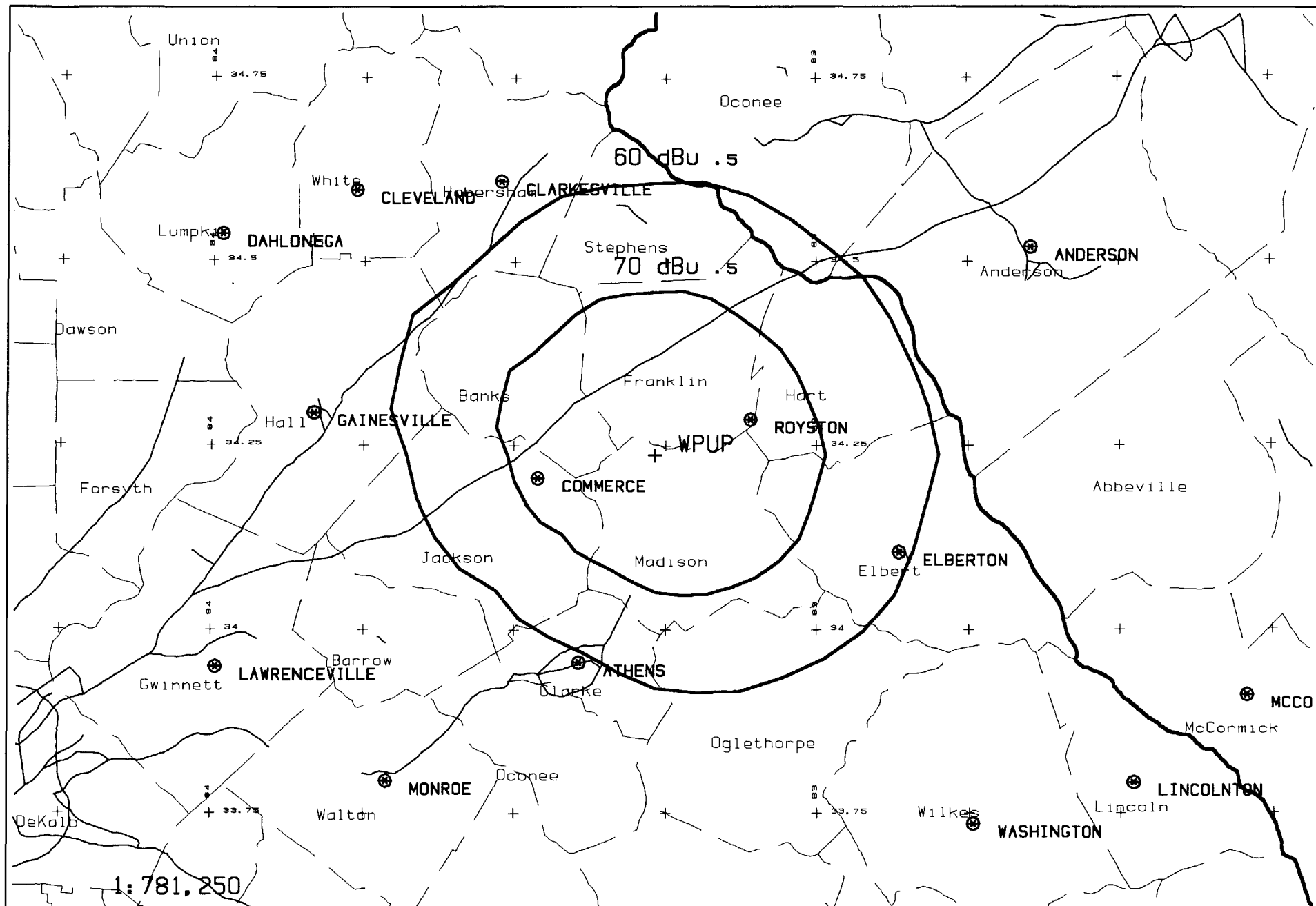
Exhibit-3 is a list of facilities that presently serve Royston and Commerce, Georgia before and after the proposed change. Royston will continue to receive broadcast service from WBIC (AM), Royston.

Exhibit-4 is a visual plot showing the "clear-to-locate" site availability area for WPUP(FM) on its present operating frequency, Channel, 279C3. Exhibit 4 shows a theoretical site for WPUP(FM), with geographic coordinates of N34-15-58 and W083-28-44, would be fully spaced to all other allotments, including specifically the WDDK(FM) licensed and CP facilities, and would fully encompass the entire city of Commerce, Georgia with a 70 dBu principal community contour. However, No actual change in transmitter site is proposed at the present time in connection with this city of license change.

This technical statement and related exhibits clearly show that the public interest would be better served by granting this proposal to change city of license for FM radio station WPUP from Royston to Commerce, Georgia.

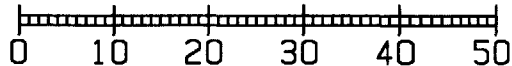


Clyde Scott, Jr.
EME Communications
293 JC Saunders Rd.
Moultrie, GA. 31768
912-890-2506



1:781,250

Scale in km

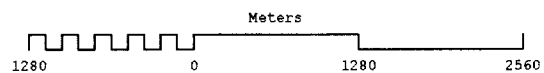


WPUP 279C3 25kW 336M AMSL

N. Lat. 34 14 13 W. Lng. 83 16 03

WPUP EXHIBIT-1

Southern Bcst. of Athens



EME Communications
EXHIBIT - 1A

Center Latitude: 4-12-13.95
Center Longitude: -27-53.53

Southern Broadcasting of Athens, Inc.
WPUP (FM)
Royston, Ga. to Commerce, Ga.

1990 Census Data

Commerce

City - 4,108

Royston

City - 2,758

Net gain by proposed move

1,350

Jackson County

County - 30,005

Franklin County


County - 16,650

Net gain by proposed move

13,335

EXHIBIT-2

Southern Broadcasting
of Athens, Inc.

EME  PROFESSIONAL ENGINEERING SERVICES
FOR THE PROFESSIONAL BROADCASTER
COMMUNICATIONS
293 JC SAUNDERS ROAD
MOULTRIE, GEORGIA 31768
(912)890-2506 (912)865-0864 Fax

Southern Broadcasting of Athens, Inc.
WPUP (FM)
Royston, Ga. to Commerce, Ga.

FACILITIES
BEFORE AND AFTER
PROPOSED CHANGE

Commerce

Royston

Before

WJJC (AM) - 1270 Khz - 5000 W

WBIC (AM) - 810 Khz - 230 W
WPUP (FM) - Ch-279 C3

After

WJJC (AM) - 1270 Khz - 5000 W
WPUP (FM) - Ch-279 C3

WBIC (AM) - 810 Khz - 230 W

EXHIBIT-3

Southern Broadcasting
of Athens, Inc.

EME  PROFESSIONAL ENGINEERING SERVICES
FOR THE PROFESSIONAL BROADCASTER
COMMUNICATIONS
293 JC SAUNDERS ROAD
MOULTRIE, GEORGIA 31768
(912)890-2506 (912)985-0864 Fax

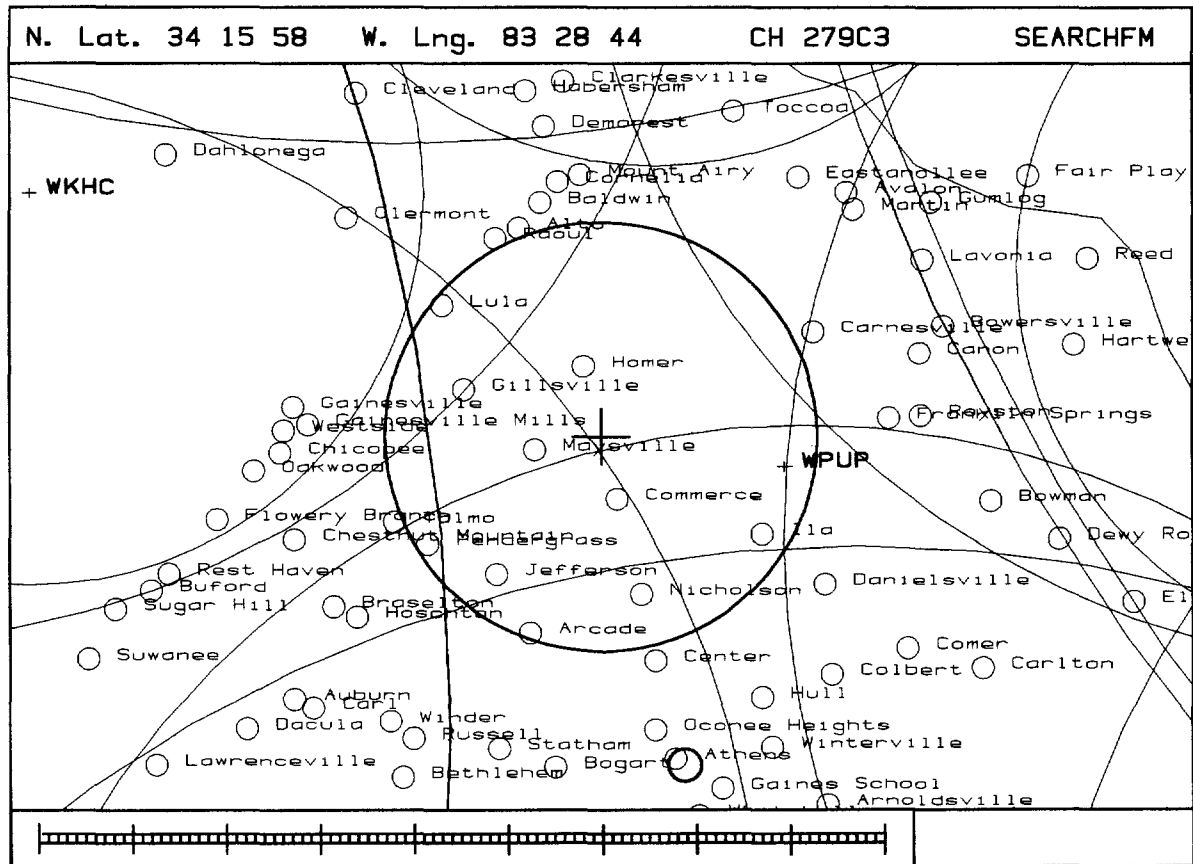


EXHIBIT-4 THEORETICAL REFERENCE POINT
TO LOCATE WPUP SHOWING 70 dBu CONTOUR TOKEN @ 23KM

Call	CH#	Location		D-KM	Azi	FCC	Margin
WPUP	279C3	Royston	GA	19.74	99.4	153.0	-133.26
WVEE	277C	Atlanta	GA	97.02	234.7	96.0	1.02
WDDK	280A	Greensboro	GA	90.38	166.2	89.0	1.38
WDDK. C	280A	Greensboro	GA	90.38	166.2	89.0	1.38
WPPL	280A	Blue Ridge	GA	102.99	310.7	89.0	13.99
WVKX	279A	Irwinton	GA	156.13	169.9	142.0	14.13
WVKX. C	279A	Irwinton	GA	156.13	169.9	142.0	14.13
WQEN	279C	Gadsden	AL	254.98	262.9	237.0	17.98
WQEN. A	279C	Gadsden	AL	255.09	262.9	237.0	18.09
ALOPEN	279C	Gadsden	AL	255.09	262.9	237.0	18.09
WOLI	280A	Easley	SC	108.05	53.6	89.0	19.05
WMTYFM	278C3	Greenwood	SC	118.89	95.2	99.0	19.89
WKHC	282A	Dahlonega	GA	66.25	293.2	42.0	24.25
WRBN	281A	Clayton	GA	71.29	4.6	42.0	29.29
WRBN. A	281A	Clayton	GA	71.29	4.6	42.0	29.29
WIMZFM	278C	Knoxville	TN	208.54	353.9	176.0	32.54
WSOCFM	279C	Charlotte	NC	275.05	65.5	237.0	38.05
WSOCFM	279C	Charlotte	NC	275.05	65.5	237.0	38.05
WSOCFM	279C	Charlotte	NC	275.08	65.5	237.0	38.08
WSOCFM	279C	Charlotte	NC	278.05	66.0	237.0	41.05
WRIXFM	276A	Honea Path	SC	88.12	78.1	42.0	46.12
WBBQFM	282C	Augusta	GA	159.59	116.7	96.0	63.59
WQEN. C	279C1	Gadsden	AL	278.30	260.7	211.0	67.30

DECLARATION AND QUALIFICATIONS OF PREPARER

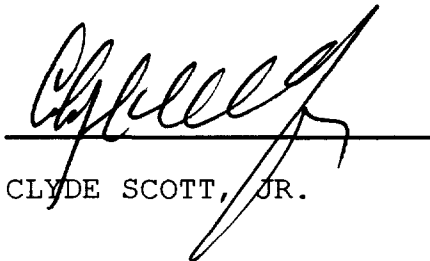
STATE OF GEORGIA)
CITY OF MOULTRIE)
COLQUITT COUNTY)

ss:

CLYDE SCOTT, JR. , UNDER PENALTY OF PERJURY, DECLARES AND SAYS
HE IS A BROADCAST ENGINEER AND PRESIDENT OF EME COMMUNICATIONS.
HE HAS BEEN ENGAGED TO PREPARE THE ATTACHED TECHNICAL EXHIBIT

THAT HIS QUALIFICATIONS ARE A MATTER OF RECORD BEFORE THE FEDERAL
COMMUNICATIONS COMMISSION AND HAS BEEN ACTIVE IN THE BROADCAST
INDUSTRY SINCE 1965 AND IN BROADCAST ENGINEERING SINCE 1972. THAT
HE IS THE HOLDER OF GENERAL RADIOTELEPHONE LICENSE NO. PG-6-30133.

THAT THE ATTACHED TECHNICAL EXHIBIT WAS EITHER PREPARED BY HIM
OR UNDER HIS DIRECT SUPERVISION. ALL MATERIAL AND EXHIBITS HERETO
ARE BELIEVED TO BE TRUE AND CORRECT.



CLYDE SCOTT, JR.

FEBRUARY 18, 1999